

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ROBERT ADAMS, III,

Plaintiff,

v.

CORRECTIONS OFFICER JUSTIN TAYLOR,

Defendant.

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**DECISION AND ORDER**

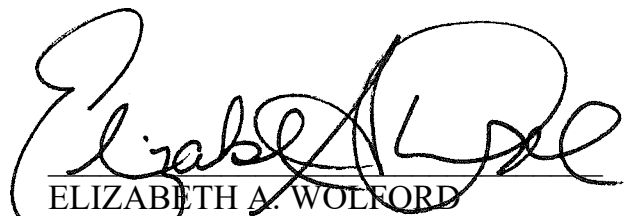
6:21-CV-06056 EAW

On April 21, 2023, Defendant filed a motion to dismiss Plaintiff's claims pursuant to Rules 37 and 41(b) of the Federal Rules of Civil Procedure, based on Plaintiff's failure to prosecute, including by failing to participate in a deposition. (Dkt. 141). On May 26, 2023, United States Magistrate Judge Marian W. Payson, to whom this case was referred pursuant to 28 U.S.C. § 636(b)(1)(A) and (B) (Dkt. 35), issued a Report and Recommendation, recommending that the Court deny Defendant's motion to dismiss (Dkt. 150).

Pursuant to 28 U.S.C. § 636(b)(1), the parties had 14 days to file objections to the Report and Recommendation. No objections were filed. The Court is not required to review *de novo* those portions of a report and recommendation to which objections were not filed. *See Mario v. P&C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) ("Where parties receive clear notice of the consequences, failure [to timely] object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision.").

Notwithstanding the lack of objections, the Court has conducted a careful review of the Report and Recommendation, as well as the prior proceedings in the case, and finds no reason to reject or modify the Report and Recommendation of Magistrate Judge Payson. Therefore, the Court accepts and adopts the Report and Recommendation. For the reasons set forth in the Report and Recommendation, the Court denies Defendant's motion to dismiss.

SO ORDERED.



ELIZABETH A. WOLFORD  
Chief Judge  
United States District Court

Dated: November 8, 2023  
Rochester, New York